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haleandorr.com  
THE WILLARD OFFICE BUILDING  
1455 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. 20004-1008  
202-942-8400 • FAX 202-942-8484

**FAX**

page # 21

Total Number of Pages: 3

Fax / Phone:

To: Special Programs Examiner Tsang    703-746-7144 /  
PTO

From: Edward D. Griefff  
202-942-8453

Date: February 20, 2003

Note:

Attached please find the Advisory Action dated February 20, 2003, where the Examiner has objected to claims 2-8, 10-17, 19-31, 33-40, 104 and 106 -- despite the fact there is no basis in the record for this objection.

Also attached please find an interview summary of February 20, 2003.

On the basis of fairness, I respectfully request that the finality of the office action dated January 22, 2002, be withdrawn on the grounds of PTO delay in acting on the application.

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Client Matter Number:

Return To: 1009

Transmitted by:

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<b>Advisory Action</b>	Application No. 09/516,194	Applicant(s) TAM ET AL
	Examiner Robert Gerstl	Art Unit 1626

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

THE REPLY FILED 22 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 22 July 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: the structure in claim 25 and in the specification.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 2-8, 10-17, 19-31, 33-40, 104, 106.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: 1.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Robert Gerstl  
Primary Examiner  
Art Unit: 1626


**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

 Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/516,194	3-1-00	David Garvey	102258.285

 Edward D. Grieff  
Hale & Orr LLP  
1455 Pennsylvania Ave, N.W.  
Washington, D.C. 20004

EXAMINER	
Gristl	
ART UNIT	PAPER NUMBER
1626	20

DATE MAILED:

**EXAMINER INTERVIEW SUMMARY RECORD**

All participants (applicant, applicant's representative, PTO personnel):

- (1) Edward Grieff (3) \_\_\_\_\_  
 (2) Robert W. Ramsauer (4) \_\_\_\_\_

Date of interview 2-20-03Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).Exhibit shown or demonstration conducted: ☐ Yes ☐ No. If yes, brief description: \_\_\_\_\_Agreement ☒ was reached with respect to some or all of the claims in question. ☐ was not reached.Claims discussed: All

Identification of prior art discussed: \_\_\_\_\_

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Upon the

payment of the necessary extension of time fees,  
prosecution on the merits of this application will  
be resumed. The amendment after final of 7-20-02  
will be entered. As such, no further response will be  
necessary by applicants until they receive a  
Office action by the examiner.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

Unless the paragraphs below have been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW (e.g., items 1-7 on the reverse side of this form). If a response to the last Office action has already been filed, then applicant is given one month from this interview date to provide a statement of the substance of the interview.

☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

☐ Since the examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action.

703-308-4534

82-3809 PTOL 413 (rev. 1-81)

Examiner's Signature

for Joseph McGane

Received from &lt;202 942 8484&gt; at 2/20/03 4:48:28 PM [Eastern Standard Time]

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